IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 277/2005

Shri Ramesh Chawan,
r/o. H.No. 120(3),
Near Ganesh Temple, New Vaddem,
Vasco da Gama, Goa. ..... Petitioner.

V/s.

Shri Umesh Bandodkar,
r/o H.No. 120,
Near Ganapati Temple,
New Vaddem,
Vasco da Gama, Goa. ..... Respondent.

Mr. N. Costa Frias, Advocate for the petitioner.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. S. Karpe, Advocate for the respondent.

CORAM : R.M. LODHA, J.

DATE : 15TH SEPTEMBER, 2005.

ORAL JUDGMENT

Heard. Rule, returnable forthwith. Advocate on record for the respondent waives service. Rule is heard finally at this stage.

2. The respondent herein is the landlord and the original petitioner in the proceedings of eviction filed against the present petitioner (the tenant) before the Rent Controller. The landlord has closed his evidence. The present petitioner has examined himself. In support of his case, the present petitioner wanted to examine Sudhakar Kanoji as his witness. However due to the absence of the said witness and his advocate, the evidence of the petitioner has been closed. An application for recalling the said order was made unsuccessfully by the petitioner before the Rent Controller. The Administrative Tribunal also did not grant any relief to the petitioner. Hence this Writ Petition.

3. Without going into the merits of the diverse contentions raised before me, I am satisfied that the interest of justice shall be subserved if one opportunity is granted to the petitioner to examine Sudhakar Kanoji as his witness, subject to payment of cost of Rs.5,000/- .

4. Rule is accordingly disposed of by following order :

(i) The present petitioner shall, on his own, produce Sudhakar Kanoji as his witness before the Rent

Controller on 11th October, 2005.

(ii) The Rent Controller shall record the evidence of the said witness on that date or any other date that may be fixed by the Rent Controller. However, the present petitioner shall not be entitled to seek any adjournment.

(iii) If the petitioner fails to bring the aforesaid witness on his own on the date fixed, he will not be entitled to examine the said witness and his evidence shall stand closed.

(iv) The cost of Rs.5,000/- shall be paid by the present petitioner to the respondent within two weeks from today.

(v) The Rent Controller is expected to hear and decide the case No. BLDG/RC-V/10/2001/60 as expeditiously as possible and preferably within four months from the date of receipt of this order.

R.M. LODHA, J.

ssm.